REMARKS/ARGUMENTS

Reconsideration and favorable action is respectfully requested in view of the above amendments and the following remarks. Currently, claims 22-33 are pending in the present application.

Request for Interview:

Applicant requests an interview with the Examiner to discuss the present application, including the present Amendment/Response. An interview request form is attached.

Objection to the claims:

Claims 22 and 27 were objected to because of an informality. These claims have been editorially amended (changing "analysing" to "analyzing") in accordance with the Examiner's helpful suggestion. Applicant thus requests that the objection to the claims be withdrawn.

Rejection under 35 U.S.C. § 103:

Claims 22-33 were rejected under 35 U.S.C. § 103 as being allegedly being unpatentable over Reber et al. ("Reber") in view of Sweat et al. ("Sweat"). Applicant traverses this rejection.

In order to establish a *prima facie* case of obviousness, all of the claim limitations must be taught or suggested by the prior art. The combination of Reber and Sweat fails to teach or suggest all of the claim limitations. For example, the combination of Reber and Sweat fails to teach or suggest "A method of automatically composing a media article according to a template specifying the desired characteristics of the media article

and having a plurality of sections, at least one of which contains a query, the method comprising: iteratively finding each section in the template and executing any query in that section to return a selection of media objects..." as required by independent claim 22 and its dependents. The combination of Reber and Sweat also fails to teach or suggest "wherein the apparatus further comprises one or more digital processors in communication with said one or more memory devices and operable to compose a media article according to a template specifying the desired characteristics of the media article and having a plurality of sections, at least one of which contains a query, by: iteratively finding each section in the template and executing any query in that section to return a selection of media objects each of which is associated with a corresponding media element..." as required by independent claim 27 and its dependents.

There is clearly no disclosure in Reber of the use of any templates. Indeed, section 6 (page 3) of the Office Action admits "Applicant argues that Reber does not disclose any use of templates. *The Examiner has to agree with this* (emphasis added)."

After this admission, the Office Action (section 6; page 3) then alleges, however, "Applicant arguments against Sweat et al. are that Sweat et al. fails to store queries. *However, the Examiner notes that the claim language does not require that the template to contain a query ("may contain a query"). Thus, the execution of the query is also optional* (emphasis added)."

By this amendment, the claim language of independent claims 22 and 27 has been amended to clarify that at least one of the template sections definitively requires a query. For example, the prior (allegedly optional) claim language of "may contain a

query" has been deleted in favor of "at least one of which contains a query." In particular, please note the deletion of "may" from claims 22 and 27.

Since claims 22 and 27 require a template section having a query, the execution of the query is also not an optional feature of these claims – as alleged by the Office Action. In short, the respective bodies of claims 22 and 27 explicitly require executing a query.

Since the alleged "optional" claim language has been deleted and in view (for example) of the Office Action's agreement that Reber fails to disclose use of templates at all, Applicant submits that independent claims 22 and 27 (as amended) and their respective dependents are not "obvious" over the combination of Reber and Sweat.

In particular, the Office Action agrees that Reber fails to disclose any use of templates. Sweat fails to resolve this admitted deficiency of Reber. Like Reber, Sweat does not teach or suggest templates or their use as required by the present claims.

For example, the Office Action's allegation that the palette of Sweat corresponds to a template is incorrect. The palettes in Sweat do not store queries or anything remotely like a query which can be used to form the basis of a search for media elements, but rather icons each of which represents a particular function which can be dragged from the palette into the "iconic editor pane" and used to visually create an application in a similar way to the way in which visual BASIC programming is performed.

Moreover, neither Sweat nor Reber describe relationship meta data which indicates a type of relationship between related media objects, nor of using this relationship type information when determining how to arrange selected media objects

obtained from executing the queries contained within a template, as required by the present claims.

Section 6 (page 3) of the Office Action alleges that "this relationship data is non-functional descriptive material and given no patentable weight. Applicant disagrees with this allegation.

First, as noted by MPEP 2143.03, "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Accordingly, the relationship data, as words explicitly recited by independent claims 22 and 27, must be considered in judging the patentability of these claims against the prior art.

Second, MPEP 2106.01 provides several examples of non-functional descriptive material. The examples therein note that "music, literature, art, photographs, and mere arrangements or compilations of facts or data, without any functional interrelationship is not a process, machine, manufacture, or composition of matter." The claimed relationship data does not fall into any of these categories. Instead, the claimed relationship data clearly imparts functionality when employed. For example, independent claim 22 (similarly comments apply to independent claim 27) explicitly and unambiguously recites using the relationship data to impart functionality as follows: "wherein the method further comprises *arranging the media elements associated with the selected media objects, or identifiers thereof, in a media article in dependence upon the type of relationship of the related media objects* (emphasis added)"

These limitations are clearly not indicative of non-functional descriptive material such as music, literature, art, photographs etc. Instead, they invoke explicitly recited

steps of claim 22 (or functionality/structure of claim 27) which must therefore be given patentable weight. The claimed relationship data enables functionality such as arranging media elements (as claimed), and thus does not form non-functional descriptive material as alleged by the Office Action.

Applicant therefore respectfully requests that the rejection under 35 U.S.C. §103 over Reber in view of Sweat be withdrawn.

Conclusion:

Applicant believes that this entire application is in condition for allowance and respectfully requests a notice to this effect.

Respectfully submitted,

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